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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

GARY L. MCNAUGHTON,
Defendant.

INDICTMENT

CASE NO.

JUDGE

Title 15, Sections 78j(b) and 78ff, United States
Code, Title 17, Code of Federal Regulations,
Section 240.10b-5; Title 15, Sections 77e(a)(2) and
77x, United States Code, Title 17, Code of Federal
Regulations, Section 240.144; Title 18, Sections
1001, 1341, 1956(a)(1)(A), 1956 (a)(1)(B), and 2;
Title 26, Section 7201, United States Code

1:06CR531

JUDGE POLSTER

The Grand Jury charges:

I. BACKGROUND

At all times material to this Indictment:

A. Relevant Persons and Entities

1. GARY L. MCNAUGHTON, the defendant, was a resident of Amherst and Elyria, Ohio. MCNAUGHTON was a member and youth assistant at the Church of the Open Door in Elyria, Ohio. MCNAUGHTON offered and sold securities in the form of notes. The majority of the investors were fellow members of the Church of the Open Door.

MCNAUGHTON was not registered to sell securities in the State of Ohio or any other jurisdiction. At times, MCNAUGHTON stated that he was a stockbroker. At other times, MCNAUGHTON stated that his profession was philanthropy.

2. Haven Equity Company ("Haven Equity") was a company name that MCNAUGHTON used in selling securities.

B. Haven Equity Accounts

3. MCNAUGHTON maintained numerous accounts at Bank One, Third Federal Savings & Loan, Lorain National Bank, Fifth Third Bank, and US Bank under various personal and business names. MCNAUGHTON was an authorized signatory on these accounts (referred to collectively as the "Haven Equity Accounts"). MCNAUGHTON also controlled several accounts in Canada under various individual and business names.

II. THE FRAUDULENT SCHEME

4. From in or about 1999, through in or about June 2003, GARY L. MCNAUGHTON, the defendant, sold securities to approximately two hundred different investors in numerous states including Ohio, Texas, Pennsylvania, Arkansas, New Jersey, Washington, Michigan, Tennessee, Georgia, Kentucky, Virginia, New York, and Florida, and the country of Trinidad and Tobago, in a principal amount of approximately \$17 million. While MCNAUGHTON sold securities and investments in the form of promissory and demand notes, the investments did not have the represented purpose of generating extraordinarily profitable returns for investors but, rather, had the purpose of promoting an illegal "Ponzi" scheme and supporting MCNAUGHTON's personal expenses.

5. Rather than actually investing client funds, GARY L. MCNAUGHTON unlawfully used the clients' money to: (a) pay purported interest, principal, and other compensation due under the terms of the securities to other existing investors; (b) pay complaining investors, to dissuade them from contacting law enforcement; (c) pay business expenses necessary to promote the illegal scheme; and (d) pay the personal expenses of GARY L. MCNAUGHTON, including luxury items such as Corvette automobiles, Harley Davidson motorcycles, motorhomes, and three parcels of real estate.

A. The "Trading" Strategy

6. To accomplish the fraudulent scheme, GARY L. MCNAUGHTON, the defendant, promoted and sold, among other things, unregistered promissory and demand notes purportedly returning a high interest rate, issued by himself, Haven Equity, and an individual in Canada. To induce clients to participate in this investment program and to purchase the notes, MCNAUGHTON falsely represented, orally and in writing, that the investor funds would be pooled and invested with a friend and trader in Ontario, Canada, who used a trading strategy that was guaranteed to generate returns by purchasing large blocks of blue chip stocks and trading options on those stocks. For example, MCNAUGHTON distributed a letter that, among other things, stated:

"When people give me money, their money goes into [an account in Canada]. This fund owns about twenty companies.... We own at least 100,000 shares of each of these companies and use these shares to 'write' (sell) covered option contracts.... We have purchased over the past years these shares when they were either fairly or underpriced. The day to day or month to month price does not affect our strategy Our goal is to NEVER sell or be in a position to have to sell any of our stocks, since we would have to pay capital gains, which we try to avoid, and we would not have our [company] stock to write options against.... This has been a

'simplified' version of what happens in the stock market and how we are able to make money with really no risk whatsoever to anyone's principle or their monthly interest cheques."

In another letter MCNAUGHTON stated, among other things:

"We fully guarantee your investment. At any time you can begin taking a monthly income and the principle would remain fixed at that point.... We never try to sell anything. We make the majority of our money by writing options on these and other stocks.... This strategy has been very profitable for us in the past seven years since it's not dependent on the market always going up. We make money if the market goes up, down, or sideways."

MCNAUGHTON fraudulently represented and guaranteed that this trading strategy in the investments would generate extraordinary rates of return from between 10 percent to 35 percent. In fact, MCNAUGHTON knew that the substantial portion of investor proceeds would not be used in that manner, but rather used to perpetuate the fraudulent "Ponzi" scheme and to pay his personal expenses.

B. Special Investment Programs

7. In some instances, MCNAUGHTON offered higher rates of return to investors who were in ministry and higher rates of return for individuals who invested larger amounts of money. To induce additional investors to participate in the program, MCNAUGHTON also offered "short-term" specials by which investors would receive even higher rates of return for the first few months of their investment. MCNAUGHTON offered higher returns to those investors who recruited new investors into the investment program. In some instances, MCNAUGHTON told the investors that their investments were "tax-free." There was no economic basis for offering these additional inducements. MCNAUGHTON offered them to perpetuate the scheme, to avoid a shortage of funds, and to pay other investors.

C. The Haven Equity Notes

8. After receiving investor funds, MCNAUGHTON provided investors a one-page promissory or demand note. None of the investors ever received a written statement reflecting the location of their money, the returns their investment purportedly earned or a statement reflecting trades through which these returns were generated. The notes did not state any risk associated with Haven Equity or financial information about MCNAUGHTON, Haven Equity, or the trader in Ontario, Canada.

D. Investor Funds

9. MCNAUGHTON pooled the investor funds in the Haven Equity accounts he controlled; investor funds were commingled with his own funds. MCNAUGHTON used funds from subsequent investors to make interest payments to previous investors.

10. In the early stages of the scheme, MCNAUGHTON sent a substantial portion of the funds to the trader and friend in Ontario, Canada (who returned the funds to MCNAUGHTON with no proof of trading activity), and used the remainder of the funds for personal and business expenses.

11. As part of the scheme and artifice, MCNAUGHTON would falsely represent that the investors were achieving high returns on their investments, both orally and in writing, causing some investors to "roll-over" their existing investments and lull them into the belief that their investments were making money and that their principal was secure. None of the investors ever received a written statement reflecting actual trading activity occurring on their behalf or on behalf of Haven Equity.

E. The "Ponzi" Scheme Begins to Unravel

12. Because of the misappropriation and misapplication of investor funds, the promissory and demand notes began to default. While MCNAUGHTON paid some interest to complaining investors, it was only a portion of the monies owed to many investors. In order to thwart the investors' ability to recognize the lack of funds on deposit in the Haven Equity Accounts, MCNAUGHTON required them to provide four months' notice (a four-month waiting period) for redeeming their investment principal.

13. Beginning in approximately late October 2002, checks reflecting monthly payments to investors began to bounce. MCNAUGHTON falsely told investors that monthly payments were being missed due to delays in transferring funds from Canada to the United States as a result of new regulations. As part of the scheme and artifice, MCNAUGHTON provided investors a letter, dated November 5, 2002, which stated:

"Due to increasing changes in banking policy resulting from the 9-11 attacks, we at Haven Equity have deemed it necessary to use a bank with an international business philosophy. We have found another institution that we believe can better serve our business needs. Please bear with us as we make the necessary adjustments to the new accounts. Please consider the enclosed check a replacement for your most recent check written on a Lorain National bank account."

This statement was false, fraudulent, and misleading in that Lorain National Bank closed the Haven Equity account and another MCNAUGHTON account due to suspicious activity.

F. The SEC and Ontario Securities Commission Investigations

14. During the course of the scheme, the United States Securities and Exchange Commission ("SEC") and the Ontario Securities Commission ("OSC") began investigating the investment program. Shortly after the SEC discovered the existence of the Haven Equity

investment program, MCNAUGHTON informed investors that he was “unwinding” Haven Equity. In the process of unwinding Haven Equity, MCNAUGHTON told investors that they had two choices: “transfer” their investment to the individual in Canada to be replaced by a note issued in Canada or wait four months for a complete refund of their principal from Haven Equity. As part of the scheme and artifice, MCNAUGHTON provided investors a letter, dated February 8, 2003, titled “Recission Offer for Demand Loan” which stated, among other things:

“I am writing this letter to inform you of some necessary changes that must be made with your account at Haven Equity. Before I lay out these changes, I wanted to take a moment to let you know how much my family and I appreciate your trusting us with your investment. Over the years God has allowed my family to meet special people like you, who have a desire to see the nations touched by the Gospel. As you know, it takes money to get this message out to the lost. Through this investment program we have been able to help many families, ministries, charities, and friends. None of this would be possible without you. Over the course of the past year it was brought to our attention several rules regarding how money can and cannot be invested in the United States. Being from Canada, we were not aware of these laws. Upon the instruction of legal counsel, we have been advised to take several steps to unwind Haven Equity Investment Club....”

This letter was false, fraudulent, and misleading in that it failed to state that MCNAUGHTON had converted a substantial portion of investor funds to his own personal use and that MCNAUGHTON was aware of U.S. rules regarding investments before the time stated. This letter was further misleading in that it sought to lull the investors into the belief that their investments were safe.

G. McNaughton Keeps the Scheme Afloat

15. Despite these representations, MCNAUGHTON continued to raise funds from additional investors. MCNAUGHTON offered and sold notes to these additional investors by

representing to them, as he did to previous investors, that their principal investment would be sent to the trader in Canada and that trader's options trading strategy would generate high rates of return that MCNAUGHTON guaranteed to them. These investors sent their funds to MCNAUGHTON who deposited their funds into accounts he controlled. MCNAUGHTON falsely represented that these funds were going to be sent to the trader in Canada when, in truth and in fact, he never sent them to accounts other than ones he controlled, the funds were never invested but, rather, were used to pay previous investors' monthly "interest" payments. Some investors were never told about the SEC and OSC investigations of Haven Equity and the trader in Canada. Other investors were never told about the previous Recision offer ("unwinding") for Haven Equity investors.

16. As some investors stopped receiving their payments beginning in approximately March and April 2003, MCNAUGHTON raised additional investor funds and, contrary to the representations he made, never sent these funds to the trader in Canada. Rather, MCNAUGHTON used these additional funds to make interest payments to previous investors. As time went on, MCNAUGHTON began to offer even higher rates of return to new investors in order to obtain more funds to keep the scheme going. As part of the scheme and artifice, MCNAUGHTON provided investors a letter, dated April 21, 2003, which stated, among other things:

"Since unwinding Haven Equity I have been unable to gain information from [the friend and trader in Canada] in who will take over the administration of our funds. I have tried everything I know, to no avail. I have therefore decided to send, by registered mail, a copy of my contract with a request for my full investment back..... If you remember, I am not a financial planner and so I can't advise you further on what your actions should be."

This letter was false, fraudulent and misleading in that it failed to disclose that MCNAUGHTON had taken in new investors since the unwinding of Haven Equity, had converted investor funds to his own use, that the Ontario Securities Commission had initiated an investigation and asset freeze for the trader in Canada and that the SEC had begun an investigation of Haven Equity. This letter was further misleading in that MCNAUGHTON sought to distance himself from the investment program when the majority of the investors had dealt solely with him and relied on his financial knowledge and expertise.

H. Material Misrepresentations and Omissions

17. From in or about 1999, through in or about June 2003, GARY L. MCNAUGHTON, the defendant, falsely and fraudulently made the following misrepresentations, both orally and in writing, or falsely and fraudulently omitted to state the following facts, among others, to induce investors to purchase Haven Equity notes:

Misrepresentations

- a. MCNAUGHTON represented that proceeds from the sale of Haven Equity notes would be used in a trading strategy that was guaranteed to generate returns by purchasing large blocks of blue chip stocks and trading options on those stocks to generate returns. In truth and in fact, MCNAUGHTON never verified that any such trades were taking place;
- b. MCNAUGHTON represented that the promissory and demand notes generated guaranteed returns and that the investors' principal was guaranteed. In truth and in fact, beginning as early as in or about October 2002, interest checks "bounced" for lack of sufficient funds and there were insufficient lawful assets on deposit with which to repay investors and MCNAUGHTON used funds from new investors to make "interest payments" to previous

investors;

c. When the notes came due, MCNAUGHTON represented that investors would earn greater profits if they deferred from redeeming or demanding immediate payment on their securities. In truth and in fact, at the time those representations were made, most of the investors' funds had already been misappropriated and misapplied as set forth herein, and the false representations were intended to (i) lull investors into maintaining their investments in the Haven Equity notes; (ii) persuade investors to "roll over" their original investments into new ones; (iii) prevent investors from discovering the fraudulent scheme; and (iv) prevent or delay investors from contacting state and federal regulatory and law enforcement authorities. In order to conceal the lack of funds on deposit, MCNAUGHTON required investors to provide four months' notice, a four-month waiting period, for a return of principal;

Omissions

d. MCNAUGHTON omitted to state that, as MCNAUGHTON well knew, a substantial portion of the proceeds from the sales of Haven Equity promissory notes would be used to pay principal and interest due to other existing investors in Haven Equity;

e. MCNAUGHTON omitted to state that, as MCNAUGHTON well knew, a portion of the proceeds from the sale of the Haven Equity promissory notes would be used to pay business expenses necessary to promote the scheme;

f. MCNAUGHTON omitted to state that, as MCNAUGHTON well knew, a substantial portion of the proceeds from the sale of the Haven Equity promissory notes would be used to pay the personal expenses of MCNAUGHTON including luxury items such as 21 vehicles including four Corvettes, two motor homes, a Harley-Davidson motorcycle, and

personal credit card expenses;

g. MCNAUGHTON omitted to state that, as MCNAUGHTON well knew, he was not registered to conduct business in the securities industry;

h. MCNAUGHTON omitted to state that, as MCNAUGHTON well knew, financial institutions had shut down the Haven Equity Accounts for suspicious activity;

i. MCNAUGHTON omitted to state that, as MCNAUGHTON well knew, he was keeping the remainder of funds still in the Haven Equity Accounts as a type of "commission" or salary payment for getting investors into the program; and

j. MCNAUGHTON omitted to state that, as MCNAUGHTON well knew, investor funds were collected but never sent to Canada.

COUNT 1
(Securities Fraud)

The Grand Jury further charges:

18. The allegations contained in paragraphs 1 through 17 of this Indictment are repeated and realleged as if fully set forth herein.

19. From in or about 1999, through in or about June 2003, in the Northern District of Ohio, Eastern Division and elsewhere, GARY L. MCNAUGHTON, the defendant, unlawfully, wilfully, and knowingly, by the use of the means and instrumentalities of interstate commerce and of the mails, directly and indirectly, would and did use and employ, in connection with the purchase and sale of securities, manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes, and artifices to defraud, (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the

circumstances under which they were made, not misleading, and (c) engaging in acts, practices, and courses of business which operated and would operate as a fraud upon investors, in connection with the purchase and sale of the securities, to wit: Haven Equity and other notes.

All in violation of Title 15, United States Code, Sections 78j(b) and 78ff, United States Code; Title 17, Code of Federal Regulations, Section 240.10b-5.

COUNT 2
(Unlawful Sale of Unregistered Securities)

The Grand Jury further charges:

20. The allegations contained in paragraphs 1 through 3 and paragraph 8 of this Indictment are repeated and realleged as if fully set forth herein.

21. From in or about 1999, through in or about June 2003, in the Northern District of Ohio, Eastern Division, and elsewhere, GARY L. MCNAUGHTON, the defendant, unlawfully, willfully, and knowingly, directly and indirectly, carried and caused to be carried through the mails and interstate commerce, by means and instruments of transportation, Haven Equity and other notes for the purpose of sale and delivery after sale, there not then being in effect with the Securities and Exchange Commission a registration statement as to such securities, to wit: defendant caused to be sent, carried, and delivered by mail and in interstate commerce Haven Equity and other notes to individual investors in the Northern District of Ohio and elsewhere, who paid for the notes through the means of interstate commerce.

All in violation of Title 15, United States Code, Sections 77e(a)(2) and 77x, United States Code; Title 17, Code of Federal Regulations, Section 240.144.

COUNTS 3-7
(Mail Fraud)

The Grand Jury further charges:

22. The allegations contained in paragraphs 1 through 17 of this Indictment are repeated and realleged as if fully set forth herein.

23. From in or about 1999, through in or about June 2003, in the Northern District of Ohio, Eastern Division, and elsewhere, GARY L. MCNAUGHTON, the defendant, did devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises; that is, MCNAUGHTON promoted and sold Haven Equity and other notes in order to obtain investor funds.

24. For the purpose of executing the foregoing scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, GARY L. MCNAUGHTON did place and cause to be placed in an authorized depository for mail matter a variety of documents to be sent to and from the Northern District of Ohio, Eastern Division, with each mailing constituting a separate count of Mail Fraud, including, but not limited to, the following:

COUNT	DATE	DOCUMENT MAILED
3	2/11/03	February 8, 2003 Letter Re: Recission Offer
4	4/22/03	April 21, 2003 Letter Re: Haven Equity
5	2/11/03	February 8, 2003 Letter Re: Recission Offer
6	9/16/02	Demand Note
7	5/30/03	Demand Note

All in violation of Title 18, United States Code, Section 1341.

COUNT 8
(False Statements)

The Grand Jury further charges:

25. The allegations contained in paragraphs 1 through 3 and paragraph 6 of this Indictment are repeated and realleged as if fully set forth herein.

26. On or about October 28, 2004, in the Northern District of Ohio, Eastern Division, GARY L. MCNAUGHTON, the defendant, unlawfully, willfully, and knowingly, in a matter within the jurisdiction of the executive branch of the government of the United States, falsified, concealed, and covered up by trick, scheme, and device material facts, and made materially-false, fictitious, and fraudulent statements and representations, to wit: MCNAUGHTON participated in an interview with the United States Postal Inspection Service ("USPIS") and the Internal Revenue Service Criminal Investigation Division ("IRS-CID"), in which he made the following false statements and concealed and covered up facts that were material to the investigation:

(a) MCNAUGHTON falsely stated that there was only one individual whose funds were not sent to the trader in Ontario, Canada; MCNAUGHTON then and there well knew this statement was false because there was several investors whose funds were not sent to the trader in Ontario, Canada.

All in violation of Title 18, United States Code, Section 1001(a)(2).

COUNT 9
(Money Laundering)

The Grand Jury further charges:

27. The allegations contained in paragraphs 1 through 17, 19, 23, and 24 of this Indictment are repeated and realleged as if fully set forth herein.

28. On or about February 5, 2003, in the Northern District of Ohio, Eastern Division, GARY L. MCNAUGHTON, the defendant, did knowingly and willfully conduct and attempt to conduct a financial transaction, affecting interstate and foreign commerce, to wit: defendant negotiated check number 501, in the amount of \$200,000, drawn on a US Bank account in the name of Advanced Telecom Solutions, Inc., which involved the proceeds of a specified unlawful activity, that is Mail Fraud and Securities Fraud, knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership and control of said specified unlawful activity and that while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction represented the proceeds of some form of unlawful activity.

All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

COUNT 10
(Money Laundering)

The Grand Jury further charges:

29. The allegations contained in paragraphs 1 through 17, 19, 23, and 24 of this Indictment are repeated and realleged as if fully set forth herein.

30. On or about February 11, 2003, in the Northern District of Ohio, Eastern Division, GARY L. MCNAUGHTON, the defendant, did knowingly and willfully conduct and attempt to conduct a financial transaction, affecting interstate and foreign commerce, to wit: defendant negotiated check number 504, in the amount of \$100,000 drawn on a US Bank account in the name of Advanced Telecom Solutions, Inc., which involved the proceeds of a specified unlawful activity, that is Mail Fraud and Securities Fraud, with the intent to promote the carrying on of specified unlawful activity, to wit: Mail Fraud and Securities Fraud, and that while conducting

and attempting to conduct such financial transaction knew that the property involved in the financial transaction represented the proceeds of some form of unlawful activity.

All in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(i) and 2.

COUNT 11
(Tax Evasion)

The Grand Jury further charges:

31. The allegations contained in paragraphs 1 through 3 of this Indictment are repeated and realleged as if fully set forth herein.

32. On or about September 21, 2001, in the Northern District of Ohio, Eastern Division, GARY L. MCNAUGHTON, the defendant, who during the calendar year 1999 was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1999, by preparing and causing to be prepared, and signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his wife, which was filed with the Internal Revenue Service, wherein it was reported that their joint taxable income for said calendar year was \$66,548 and that the amount of income tax due and owing thereon was \$25,501, whereas, as the defendant then and there well knew and believed, their joint taxable income for said calendar year was approximately \$254,565, upon which said income there was an income tax due and owing to the United States of America of approximately \$87,468, the unreported income including Haven Equity investor funds which the defendant used for his own personal benefit.

All in violation of Title 26, Section 7201, United States Code.

COUNT 12
(Tax Evasion)

The Grand Jury further charges:

33. The allegations contained in paragraphs 1 through 3 of this Indictment are repeated and realleged as if fully set forth herein.

34. On or about September 21, 2001, in the Northern District of Ohio, Eastern Division, GARY L. MCNAUGHTON, the defendant, who during the calendar year 2000 was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 2000, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his wife, which was filed with the Internal Revenue Service, wherein it was reported that their joint taxable income for said calendar year was \$76,064 and that the amount of income tax due and owing thereon was \$25,653, whereas, as the defendant then and there well knew and believed, their joint taxable income for said calendar year was approximately \$289,312, upon which said income there was an income tax due and owing to the United States of America of approximately \$97,287, the unreported income including Haven Equity investor funds which the defendant used for his own personal benefit.

All in violation of Title 26, Section 7201, United States Code.

COUNT 13
(Tax Evasion)

The Grand Jury further charges:

35. The allegations contained in paragraphs 1 through 3 of this Indictment are repeated and realleged as if fully set forth herein.

36. On or about July 25, 2003, in the Northern District of Ohio, Eastern Division, GARY L. MCNAUGHTON, the defendant, who during the calendar year 2001 was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 2001, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his wife, which was filed with the Internal Revenue Service, wherein it was reported that their joint taxable income for said calendar year was \$152,681 and that the amount of income tax due and owing thereon was \$50,700, whereas, as the defendant then and there well knew and believed, their joint taxable income for said calendar year was approximately \$422,549, upon which said income there was an income tax due and owing to the United States of America of approximately \$150,320, the unreported income including Haven Equity investor funds which the defendant used for his own personal benefit.

All in violation of Title 26, Section 7201, United States Code.

A TRUE BILL.

Original document-Signatures on file with the Clerk of Courts, pursuant to E-government Act of 2002.

United States v. Gary L. McNaughton,

A TRUE BILL.

FOREPERSON

GREGORY A. WHITE
UNITED STATES ATTORNEY